

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000 14TH STREET, N.W. SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	
)	DATE: October 29, 2002
Cloria Ann Cantey)	
Support Services Officer)	DOCKET NO.: CF 2002-02
Executive Office of the Mayor)	

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) pursuant to a referral from the Office of the Inspector General for the District of Columbia (hereinafter OIG) in a published report entitled "Report of Investigation of the Fundraising Activities of the Executive Office of the Mayor (EOM)" (hereinafter Report) (OIG Control Number 2001-0188 (S)). In the Report, the Inspector General has alleged that certain current and former employees engaged in behavior that violated provisions of the District of Columbia Personnel Manual Standards Of Conduct.

In the instant case, the Inspector General has alleged that Cloria Ann Cantey (hereinafter respondent) engaged in private or personal business activity on government time and with the use of government resources on behalf of the non-profit For The Kids Foundation (hereinafter FTKF) in violation of §§1803.1(f), 1804.1(b) and (d), 1805.2 and 1806.1 of the District Personnel Manual (hereinafter DPM).¹

¹ DPM §§1803.1(f), 1804.1(b) and (d), 1805.2 and 1806.1 follow:

1803.1 An employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in, or create the appearance of the following:

. . .

(f) Affecting adversely the confidence of the public in the integrity of government.

1804.1 An employee may not engage in any outside employment or other activity, which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not

Upon OCF's evaluation of the material amassed in this inquiry, it was decided that the parameters of this inquiry extended solely to the DPM employee conduct regulations.

There was not any credible evidence that the respondent committed any violations of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974 (the Act), as amended, D.C. Official Code §§1-1101.01 et seq. (2001 Edition). Any alleged violation of the Act by the respondent would be predicated upon the premises that respondent realized personal gain through official conduct, engaged in any activity subject to the reporting requirements and contribution limitations of the Act, or used District government resources for campaign related activities.² See D.C. Official Code §1-1106.01.

Additionally, fines may be assessed for any violation of the Act. OCF's review did not reveal any such activity.

Accordingly, where a violation of the DPM employee conduct regulations has occurred, OCF is limited with respect to any action which otherwise may be ordered. Inasmuch as the DPM consists of personnel regulations, fines cannot be assessed. The Director may only recommend disciplinary action to the person responsible for enforcing the provisions of the employee conduct rules against the respondent.

By letter dated June 7, 2002, OCF requested the appearance of the respondent at a scheduled hearing on June 14, 2002. The purpose of the hearing was to show cause why the respondent should not be found in violation of the Standards of Conduct, which the respondent was alleged to have violated in the OIG Report. On June 10, 2002, by letter, the respondent requested an extension for said hearing date, which was approved, and on

compatible with government employment include but are not limited to, the following:

...

(b) Using government time and resources for other than official business;

...

(d) Maintaining financial or economic interest in or serving (with or without compensation) as an officer or director of an outside entity if there is any likelihood that such entity might be involved in an official government action or decision taken or recommended by the employee[.]

1805.2 No District employee may acquire an interest in or operate any business or commercial enterprise, which is in any way related, directly or indirectly, to the employee's official duties, or which might otherwise be involved in an official action taken or recommended by the employee, or which is in any way related to matters over which the employee could wield any influence, official, or otherwise.

1806.1 A District employee shall not use or permit the use of government property, equipment or material of any kind... for other than officially approved purposes.

² D.C. Law 14-36, "Campaign Finance Amendment Act of 2001," effective October 13, 2001, prohibits the use of District government resources for campaign related activities.

June 12, 2002, OCF issued a letter rescheduling the hearing for July 9, 2002.

Summary of Evidence

The OIG has alleged that the respondent violated the above referenced provisions of the DPM as a result of her role as Director of FTKF and her subsequent execution of an application for non-profit tax exempt status as an officer of the FTKF. Consequently, OIG has alleged that the respondent engaged in activity which was not compatible with the full and proper discharge of her responsibilities as a government employee. The OIG relies exclusively upon its Report, which is incorporated herein in its entirety.

On July 9, 2002 the respondent appeared pro se before the OCF at a scheduled hearing, conducted by William O. SanFord, Esq., Senior Staff Attorney. Wesley Williams, OCF Investigator, was also present.

Synopsis of Proceedings

The respondent is a Contract Specialist with the Office of Government Business and Human Capital. She has been employed with the Government of the District of Columbia for more than 23 years. She has occupied her current position for approximately 2 years.

During the time of the instant Report, the respondent was employed in the Office of Mission Support of the Office of the Chief Financial Officer (the CFO's Office). Report at 159.

She stated that she had read the OIG Report but did not believe it accurately depicted the testimony she provided during the interview she attended with two Special Agents on March 1, 2002.

The respondent testified that she is familiar with the Standards of Conduct as cited in the DPM. The respondent further testified that she had read and understood the allegations against her in the Report. The respondent was informed that the Inspector General has alleged that she used government resources for other than official business or government approved or sponsored activity in violation of DPM §1806.1, when she authorized the use of her home address as the mailing address of the FTKF and signed an Internal Revenue Form SS4 application for tax exempt status on behalf of the FTKF.

The respondent conceded that she allowed the FTKF to use her home address and signed the application in question. However, she stated that in both cases, she was responding to requests from Thomas Tucker (hereinafter Tucker), who was an assistant to Mayor Williams, and former Deputy Chief of Staff, Mark Jones (hereinafter Jones) with whom she had worked at the D.C. Lottery and considered a friend. Respondent further stated that it was her understanding that Jones had referred Tucker to her.

Respondent stated that the extent of her involvement with the FTKF was signing the documents presented to her by Tucker and attending three or four basketball games at the MCI Arena as a chaperone for the children at the FTKF sponsored event. Respondent emphasized that on no prior or subsequent occasions was she involved in any activity related to FTKF. She stated that when Tucker presented her with a blank application for tax exempt status and requested her signature she did not know that signing the document would violate any provision of the DPM. She further stated that she assumed that neither Tucker nor Jones would have instructed her to engage in any activity that conflicted with District government law or regulations. She emphatically denied participating in any fundraising activity on behalf of FTKF or any private entity while employed by the District government.

The respondent conceded that she used poor judgement when she signed a blank form that was provided by Tucker and allowed her home address to be used as a mailing address for FTKF, based on Tucker's representations that he merely wanted to use her information for a transitional period until he established a post office box for FTKF. She further stated that she did not initiate the contact that resulted in her involvement and she would not have agreed to participate to any degree if she had known that Jones and Tucker were involving her in inappropriate activity.

The respondent demonstrated a general disappointment in Jones and Tucker and indicated that she believed that they had taken advantage of her to the extent that neither Jones nor Tucker candidly apprised her of the consequences of the activity for which they had recruited her.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent, Cloria Ann Cantey, who was employed in the Office of Mission Support of the Office of the Chief Financial Officer (CFO) in 2000, was a public official required to file a Financial Disclosure Statement (FDS) with OCF.
2. FTKF was a non-profit organization created early in 2000 by Vivian Byrd, then Trade Development Specialist, D.C. Lottery and Charitable Games Control (DCLB), and Jones, then Deputy Director of Operations, DCLB, designed to develop and implement under the auspices of the Mayor, civic programs for the benefit of the children of the District of Columbia. Report at 157.
3. The respondent formerly was formerly employed at DCLB when Jones was Deputy Director of Operations.

4. The respondent attended at least three (3) basketball events, chaperoning children, under the auspices of FTKF.
5. Jones conducted the businesses of FTKF and UAF at his government office at 1 Judiciary Square, 441 4th Street, N.W., Washington, D.C. See In the Matter of Mark Jones, Docket No. PI 2001-101 (November 7, 2001) (hereinafter Matter of Jones).
6. In April 2000, Jones, the then Deputy Chief of Staff for External Affairs, referred Tucker, the then Special Assistant at the EOM for Jones, to the respondent to sign a blank IRS form and to allow the use of her home address for FTKF business.
7. Respondent acquiesced because she believed Jones dispatched Tucker and that Tucker sought her cooperation in a government task.
8. Respondent trusted Jones, as a government colleague and friend, not to involve her in any activity that conflicted with the ethics laws of the District of Columbia.

Conclusions of Law

1. Respondent is an employee of the District of Columbia government and is subject to the enforcement provisions of the employee conduct regulations at DPM §§1800 et seq.
2. In 2000, Jones conducted the business of FTKF, notwithstanding that it was a private, non-profit organization, out of his office at 1 Judiciary Square, 441 4th Street, N.W., Washington, D.C.; and the respondent believed that FTKF's business was government business.
3. Civic programs developed and implemented for the benefit of the children of the District of Columbia were government programs, funded in part by FTKF, and supported by the respondent, who participated as a volunteer chaperone to at least 3 events.
4. Respondent used District of Columbia government time and resources to sign a blank IRS form and to allow the use of her home address for FTKF business; and, notwithstanding that the respondent believed that FTKF's business was government business and that Jones, then Deputy Chief of Staff for External Affairs, and Tucker, then Special Assistant at the EOM for Jones, instructed her to do so, it is more likely than not that the respondent was well aware that her actions violated the employee conduct regulations because the respondent was lending her name and home address to a private, non-profit corporation which was to be used as a conduit for government

business.

5. The responsibility for enforcing the provisions of the employee conduct rules against the respondent rests with the head of the Office of Government Business and Human Capital.

Recommendation

Because of the limited participation of the respondent in the conduct of FTKF business on government time, I hereby recommend the Director to advise the head of the Office of Government Business and Human Capital to warn the respondent to refrain, in the future, from prohibitive conduct, and to mandate that the respondent, if she has not already done so, attend training sessions on the DPM Standards of Conduct.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

Because of the limited participation of the respondent in the conduct of FTKF business on government time, I hereby advise the head of the Office of Government Business and Human Capital to warn the respondent to refrain, in the future, from prohibitive conduct, and to mandate that the respondent, if she has not already done so, attend training sessions on the DPM Standards of Conduct.

This Order may be appealed to the Board of Elections and Ethics within 15 days from issuance.

Date

Cecily E. Collier-Montgomery
Director

Parties Served:

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Charles Maddox, Esq.
Inspector General
Office of the Inspector General
717 14th Street, N.W., 5th Floor
Washington, D.C. 20005

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order.

S. Wesley Williams
Investigator

NOTICE

Pursuant to 3 DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this Order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000 14th Street, N.W., Washington, D.C., 20009.